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Brent M. Peebles 38,576  
Name of Attorney Registration No.  
*BMP*  
Signature of Attorney

Case 8287

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Application of :  
Marjorie Mossman Peffly :  
Anthony Raymond Marchetta :  
Serial No. 09/685,850 : Group Art Unit: 1615  
Filed: October 10, 2000 : Examiner: R. Bennett  
Title: SCALP COSMETIC COMPOSITIONS :  
AND CORRESPONDING METHODS :  
OF APPLICATION TO PROVIDE SCALP :  
MOISTURIZATION AND SKIN ACTIVE :  
BENEFITS :  
} *#5  
S/OPP  
(6/8)*

DECLARATION OF MARJORIE MOSSMAN PEFFLY UNDER 37 CFR 1.132

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

I, Marjorie Mossman Peffly, hereby declare and say the following:

1. I have been a full-time employee of The Procter & Gamble Company since 1981, and my current position with the company is Principle Scientist, Global Beauty Care.
2. I am one of the named inventors on the above-entitled application and am familiar with the February 23, 2001 Office Action in that application.
3. The claimed invention in the above-entitled application is scalp cosmetic composition comprising:
  - a) from about 40% to about 99% by weight of a volatile liquid having a vapor pressure greater than 23.7mmHg as measured at 25°C, and
  - b) from about 0.005% to about 20% by weight of a skin active agent,
  - c) from about 0.1% to about 20% by weight of a liquid humectant,wherein the composition is a leave-on composition that is substantially free of cleansing surfactants and is applied directly to the scalp.

4. Under my direction, tests were performed to compare the skin surface hydration performance of scalp cosmetic compositions having 55% ethanol and various amounts of humectant and/or panthenol.

5. The scalp cosmetic compositions tested are described below in Table 1. The sample compositions were prepared by methods well known in the formulation arts for preparing hydro-alcoholic liquids. Unless otherwise specified, all percentages are by weight of the scalp cosmetic composition.

**Table 1**

Ingredient:	Example A	Example B	Example C	Example E	Example F
Weight %					
Water, DRO	balance	balance	balance	balance	balance
Carbomer (1)	0.3	0.3	0.3	0.3	0.3
Amiomethyl propanol (4)	0.26	0.26	0.26	0.26	0.26
Ethanol (6)	55.0	55.0	55.0	55.0	55.0
Zinc Pyrithione (7)	0.1	0.1	0.1	0.1	0.1
Methyl Lactate (10)	0.35	0.35	0.35	0.35	0.35
Menthol (11)	0.15	0.15	0.15	0.15	0.15
Panthenol (13)	-	1.0	1.0	0.06	-
Tocopherol Acetate (14)	-	0.5	-	-	-
PEG-60 Hydrogenated Caster Oil (15)	-	1.0	-	-	-
Glycerin (18)	5.0	5.0	5.0	-	-
Allantoin (19)	-	0.05	-	-	-
Isoceteth-20 (70%act.) (20)	-	0.71	-	-	-
Fragrance (22)	-	0.30	-	-	-

1	Carbopol Ultrez 10, supplier: B.F. Goodrich	13	D Panthenol, supplier: Hoffmann LaRoche
4	AMP Regular, supplier: Angus	14	Vitamin E Acetate, supplier: BASF
6	200 proof, SDA 40-2	15	Cremophor RH 60, supplier: BASF
7	small platlet ZPT (2.5m), supplier: Arch	16	Tagat TO, supplier: Goldsmidt
8	Whitco Zinc Stearate D. USP, supplier: Witco	18	Superol USP, supplier: Procter & Gamble
10	Frescolate ML, supplier: Haarman & Reimer	19	Allantoin micronized, supplier: ICI
11	USP Menthol, supplier: Haarman & Reimer	20	Arlasolve 200L, supplier ICI
12	Frescolat MGA, supplier: Haarman & Reimer	22	Fragrance, supplier Haarman & Reimer

6. The sample compositions were evaluated using 16 panelists. A model Skicon-200 made by I.B.S. Co. Ltd. (Shizuoka-ken, Japan) was used to evaluate skin surface hydration in vivo by measuring conductance. Units of measure are in micro ohms ( $\mu\sigma$ ). A multi-point probe is used to avoid hair and insure contact with the stratum corneum. Baseline measurements (no product) and 4hour measurements (after product application) were both made on the lower leg.

7. The results are reported in Table 2 (below). The numbers shown in the "LS Mean,  $\mu\sigma$

4hr-Initial" column are the least square means of the delta readings (4hr. - Baseline). A **higher delta indicates a higher moisture level in the skin**. All products had 0.1% ZPT as the main skin active agent.

**Table 2**

Example	ZPT Level	Ethanol Level	Glycerine Level	Panthenol Level	Vitamin E Level	LS Mean, $\mu\sigma$ 4hr-Initial	Significance @90% *
A	0.1%	55%	5%	0%	0%	207.75	A
B	0.1%	55%	5%	1%	1%	206.05	AB
C	0.1%	55%	5%	1%	0%	184.30	B
D**	0%	0%	0%	0%	0%	10.44	C
E	0.1%	55%	0%	0.06%	0%	-1.89	CD
F	0.1%	55%	0%	0%	0%	-20.03	D

\* Significance differences were the same at @95% confidence.

\*\* Control (No Treatment)

8. Examples A, B and C demonstrated moisturization values significantly better than untreated. All of these compositions have both humectants and high ethanol. Examples E and F, which have high ethanol and either no humectant or an insufficient level of humectant, show moisture levels below that of untreated skin.

9. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that the statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18, of the United States Code, and that such willful false statements may jeopardize the validity of the above-identified application of any patent issued thereon.

*Marjorie Mossman Peffly*

Marjorie Mossman Peffly

Dated: 5-23-01

18 U.S.C §1001 Statements or Entries Generally

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry shall be fined no more than \$10,000 or imprisoned not more than five years, or both.